

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JAMES HORROD,

Plaintiff,

Civil No. 06-6260-CO

v.

ORDER AND FINDINGS AND

RECOMMENDATION

COMMISSIONER SOCIAL  
SECURITY ADMINISTRATION,

Defendant.

An examination of the application reveals that plaintiff is unable to afford the costs of this action. Accordingly, IT IS ORDERED that the provisional in forma pauperis status given the plaintiff is confirmed.

**ORDER**

Plaintiff's application to proceed in forma pauperis is granted.

**RECOMMENDATION**

It is recommended that the clerk not issue process, but that this complaint be dismissed with leave to refile. It is clear that the Secretary, Social Security Administration is the only proper party to this action. It is unclear what decision plaintiff is appealing. Federal Rules Of Civil Procedure Rule 8 requires the complaint to set forth a short plain statement showing the party is

entitled to relief. Therefore, plaintiff should be given leave to file an amended complaint that complies with the requirements of Rule 8 and names the proper defendant. Failure to file an amended complaint that complies with Rule 8 within 30 days of the Court's Order will result in dismissal of this action with prejudice.

This recommendation is not an order that is immediately  
appealable to the Ninth Circuit Court of Appeals. Any notice of  
appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate  
Procedure, should not be filed until entry of the district court's  
judgment or appealable order. The parties shall have ten days from  
the date of service of a copy of this recommendation within which  
to file specific written objections with the court. Thereafter,  
the parties have ten days within which to file a response to the  
objections. Failure to timely file objections to any factual  
determinations of the Magistrate Judge will be considered a waiver  
of a party's right to de novo consideration of the factual issues  
and will constitute a waiver of a party's right to appellate review  
of the findings of fact in an order or judgment entered pursuant to  
the Magistrate Judge's recommendation.

DATED this 28 day of November, 2006.

/s/  
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JOHN P. COONEY  
United States Magistrate Judge